

**SUMTER COUNTY BOARD OF COMMISSIONERS
EXECUTIVE SUMMARY**

SUBJECT: Approval of Release of Lien for Jumper Creek Homeowner's Association, Inc. (Staff recommends approval).

REQUESTED ACTION: Approval of Chairman's signature on Release of Lien

☐ Work Session (Report Only)

☒ Regular Meeting

DATE OF MEETING: 6/12/2012

☐ Special Meeting

CONTRACT: ☒ N/A

Effective Date: _____

Managing Division / Dept: _____

Vendor/Entity: _____

Termination Date: _____

Code Enforcement/Building Services

BUDGET IMPACT:

☐ Annual

☐ Capital

☒ N/A

FUNDING SOURCE: _____

EXPENDITURE ACCOUNT: _____

HISTORY/FACTS/ISSUES:

A code enforcement lien was filed against this property on 07/13/2010, in which the property owner at the time was Jumper Creek Joint Venture. Jumper Creek Homeowner's Association, Inc. obtained ownership via Quit Claim Deed on 2/17/2012, and the property was found in compliance on 4/04/2012. Staff costs in the amount of \$361.06 were paid on 5/30/2012. Since the current owners have brought the property into compliance, a Release of Lien is being requested.

Owner Name – Jumper Creek Homeowner's Association, Inc.

Property Address - SE 26th Drive, Bushnell, FL 33513

Parcel - N24A117

Original Hearing Date - 03/25/2010

Date Found In Compliance - 04/04/2012

Staff Costs Paid - \$361.06

Staff Costs Due - \$0.00

Total Lien Amount - \$20,550.00

Daily Fine Amount - \$150

Total Amount of Days in Violation - 137

Code Compliance takes pride in helping to ensure property values are maintained by assisting property owners in complying with health, safety, and welfare standards. Periodically, liens are placed on property to support the compliance process. The purpose of the lien is not to generate funds for the county; therefore, once property is brought into compliance, the actual costs incurred by Code Compliance are collected, and the balance of the lien amount is requested to be released.

The lien amount figure is calculated by multiplying the daily fine amount by the total number of days the property remains in violation. Staff costs are calculated by adding the number of inspections performed (@ \$50 each) during the course of the code case, all actual costs of postage, and an administrative cost of \$100.

This instrument prepared by:
Sandy Cassels, Building Services
910 N. Main Street, Ste. 301
Bushnell, FL 33513

RELEASE OF LIEN

In consideration of value received, the lien recorded as part of a Final Order of the Sumter County Code Enforcement Board dated 03/25/2010, and recorded 07/13/2010, in OR Book 2210, Page 17, Document #201018557, Public Records of Sumter County, direct the Clerk to satisfy the same of record, as is more particularly described as follows:

1. Lien amount: \$20,550.00
2. This is a final release of lien.
3. This applies to the following described property in Sumter County, Florida:

Parcel – N24A117
Section 24, Township 21S, Range 22E:
Tracts 1, 2, 3 & Jumper Creek Manor
4. Property Owner: Jumper Creek Homeowner's Association, Inc.

ATTEST:

SUMTER COUNTY, FLORIDA

By: Deputy Clerk

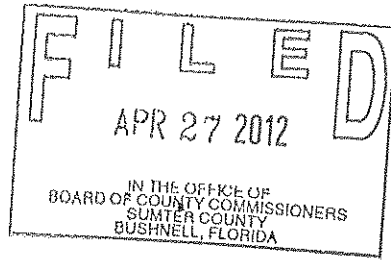
By: Garry Breeden, Chairman

STATE OF FLORIDA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me on the _____ day of _____, 2012, by Garry Breeden, Chairman, BOARD OF COUNTY COMMISSIONERS, AND _____ AS DEPUTY CLERK.

Notary Public, State of Florida
My Commission Expires: _____

Personally known _____ or Produced Identification
Type of Identification Produced _____



D. Scott Baker, Esq.
407-425-7010
sbaker@zkslawfirm.com

April 25, 2012

Via Regular U.S. mail and
Certified Mail, Return Receipt Requested
#7011-0470-0000-5310-4977

Sumter County Board of County Commissioners
c/o Bradley Arnold, County Administrator
7375 Powell Road
Wildwood, FL 34785

Copy To:

Commrs	_____	Pub Wks Div	_____
Co Atty	_____	Bldg & Dev Div	_____
Co Fin	_____	Admin Div	_____
Other	_____	Com Svcs Div	_____

Re: Code Enforcement Fine Waiver Request
Property Address: SE 26th Drive, Bushnell, FL 33513

Dear Mr. Arnold:

We represent the Jumper Creek Homeowner's Association, Inc. ("HOA"). The HOA recently learned that common area property it owns is subject to an Order Imposing Penalty/Lien recorded at Official Records Book 2210, Page 17 (copy attached as Exhibit "A").

I am writing to request a waiver of accrued code enforcement fines from the Board of County Commissioners. My client agrees to pay accrued staff costs associated with the violation in the amount of \$361.06. The HOA requests the fine waiver for the following reasons.

First, the HOA did not receive notices of the violation and claim of lien until March 2012. The reason for this is probably due to the fact that the developer did not deed the common area tracts to the HOA until March 2012. I have attached a copy of the deed from the developer to the HOA, recorded on March 19, 2012, as Exhibit "B." Prior to that time, the notices would have gone to the address of the owner of record, and not to the HOA.

Second, despite the developer retaining ownership of the common area tracts, the property owner of the surrounding residential development has been maintaining the common areas since August 2010. The new owner took title to the surrounding properties through a foreclosure. The previous owner essentially abandoned the project and the HOA, and the new owner and new HOA managers have been diligently maintaining the property according to County Codes.

ZIMMERMAN KISER SUTCLIFFE

One Landmark Center, Suite 600 | 315 E. Robinson St | Orlando, FL 32801
Phone 407.425.7010 | Fax 407.425.2747 | www.zkslawfirm.com

*Bradley Arnold
BOCC County Administrator
Jumper Creek HOA
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Third, payment of the full code enforcement lien will necessarily fall on the homeowners within Jumper Creek subdivision and constitute a severe financial hardship. These homeowners are not at fault but would be forced to pay large assessments to cover the fine.

Based on the foregoing, we respectfully ask the BOCC to waive the accrued fines, subject to payment of the county's staff costs, and to record a satisfaction of lien in the public records for the subject properties. Please do not hesitate to call me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Scott Baker", with a stylized flourish at the end.

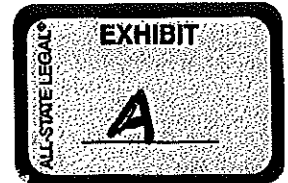
D. Scott Baker

DSB/amo
Enclosures

cc: J.C. Lazaro, LCAM (*via email*)
Sandy Cassells, Code Compliance Department Secretary (*via email*)

credit

R: Alysia



SUMTER COUNTY SPECIAL MASTER
CASE #CE2009-0543

County of Sumter, Petitioner

Vs.

Jumper Creek Homeowners Association, Respondent

STATE OF FLORIDA, COUNTY OF SUMTER
I HEREBY CERTIFY, that the above and
foregoing is a true copy of the original.
Sumter County Code Enforcement Board
By Alysia Akins, Recording Secretary
Dated July 1, 2010

ORDER IMPOSING PENALTY/LIEN

THIS CAUSE came on for public hearing before the Sumter County Special Master (herein referred to as "Special Master") on 3/25/2010, after due notice to Respondent(s), at which time the Special Master heard testimony under oath, received evidence, and issued its Findings of Facts and Conclusions of Law and thereupon issued its oral Order which was reduced to writing and furnished to Respondent(s). Respondent(s) was given the right to request a hearing within 20 days.

Said Order required Respondent(s) to take certain action by a time certain, as specifically set forth in that Order.

An Affidavit of Non-Compliance, bearing the date of 6/2/2010, has been filed by the Code Enforcement Coordinator, which Affidavit certified under oath that the required corrective action has not been taken as ordered.

Accordingly, it having been brought to the Special Master's attention that Respondent(s) has not complied with the order dated 3/25/2010, it is hereby:

ORDERED that Respondent(s) pay to Sumter County, 910 N. Main Street, Suite 301, Bushnell, FL 33513, costs in the amount of \$361.96 and a \$150 daily fine that began accruing on 3/25/2010 and will continue to accrue until compliance is met for the property located at SE 26th Drive, Bushnell, FL 33513.

Parcel N24A117
Section 24, Township 21S, Range 22E
TRACTS 1 2 3 & 7 JUMPER CREEK MANOR

A certified copy of this ORDER will be recorded and shall then constitute a lien for all the accrued fines against the above described property, and any other real or personal property that the violator owns in Sumter County where recorded pursuant to Section 162.09 of the Florida Statutes.

DONE AND ORDERED this 1 day of July, 2010 at Sumter County, Florida.

SPECIAL MASTER:

R. Lee Hawkins Jr.
Special Master

ATTEST:
DATED

July 1, 2010
Alysia Akins
Recording Secretary

PERSONALLY appeared before me, the undersigned authority, R. Lee Hawkins Jr., well known to me and known by me to be the Special Master, respectively, for Sumter County, and acknowledged before me that he executed the foregoing instrument on behalf of the Special Master, as its true act and deed, and that he was duly authorized to do so.

WITNESS my hand and official seal this date: July 1, 2010

Alysia Diane Akins

Notary Public

My commission expires:



ALYSIA DIANE AKINS
Commission DD 647466
Expires March 8, 2011
Bonded 100% by Title Insurance \$100,000.00

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Order Imposing Penalty/Lien will be furnished by certified mail on this 1st day of July, 2010.

Alysia Akins
Recording Secretary

SUMTER COUNTY, FLORIDA
GLORIA HAYWARD, CLERK OF CIRCUIT COURT
07/13/2010 02:20:01PM
LIEN

PAGE 1 OF 3
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2010 18557

FILED BY: [illegible]

SUMTER COUNTY SPECIAL MASTER
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Respondents: Jumper Creek Homeowner's Association
File No.: CB2009-0543

This cause was presented for public hearing before the Sumter County Special Master, Sumter County, Florida, on March 25, 2010, after due notice to the Respondents. The Special Master having heard testimony under oath, received evidence, and heard argument of counsel (if any), thereupon issues its Findings of Fact, Conclusions of Law, and Order as follows:

I: FINDINGS OF FACT:

- A. The Respondents own real property located at SE 26th Drive, Bushnell, Florida, in which the parcel identification number is N24A117.
- B. The Respondents were sent a Notice of Hearing by certified mail stating a hearing would be held before the Sumter County Special Master to determine whether the Respondents were violating Section 6-104(5) of the Sumter County Code.
- C. Photographs of the violations taken on 3/25/10 were submitted into the record.
- D. The Respondents were not present.
- E. Edd Kaman, Inspector, testified the property does not have homestead exemption. Mr. Kaman testified the code case began on 12/18/09, and his last visit to the property was on 3/25/10, in which the property remained in violation. Mr. Kaman testified the vacant/abandoned lots and drainage retention areas within the subdivision are overgrown.
- F. Mr. Kaman recommended the Respondents pay staff costs due in the amount of \$361.06 and mow and maintain the property by 3/26/10 or a \$250 daily fine be ordered in addition to paying staff costs.

II: CONCLUSIONS OF LAW:

- A. 6-104.(5) NUISANCES-GRASS
The overgrowth of any herbaceous and/or woody plant life over twenty-four (24) inches high in any residential or commercially classified land in the unincorporated areas of Sumter County shall constitute prima facie evidence of maintaining a nuisance, injurious to health, which such conditions shall not be deemed to be all inclusive.
- B. The Respondents are in violation of the above named code due to the overgrowth on the properties.

III: ORDER:

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that:

- A. The Respondents were found in violation of Sumter County Code due to the overgrowth on the properties.
- B. The Respondents were ordered to comply by mowing and maintaining the properties in violation and paying staff costs in the amount of \$361.06 by 3/26/10 or a \$150 daily fine will accrue for each and every day the property is found in violation and staff costs are remain unpaid.

SUMTER COUNTY, FLORIDA
GLORIA HAYWARD, CLERK OF CIRCUIT COURT
07/13/2010 02:20:01PM
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PAGE 2 OF 3
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2010 18557

- C. In addition to any fines, the Respondents shall be responsible for any additional inspection costs, collection costs, administrative costs, legal fees, attorneys' fees, recording costs, and all other costs associated with the collection of this ORDER.

DONE AND ORDERED this 20th day of April, 2010, in Bushnell,
Sumter County, Florida,

R. Lee Hawkins, Jr.
R. Lee Hawkins, Jr., Special Master

I hereby certify that a true and correct copy of the above and foregoing Findings of Fact,
Conclusions of Law, and Order will be furnished by certified mail to the respondents on this
20th day of April, 2010.

Alycia Atkins
Alycia Atkins - Code Enforcement Coordinator

SUMTER COUNTY, FLORIDA
GLORIA HAYWARD, CLERK OF CIRCUIT COURT
07/13/2010 02:20:01PM
LIEN
PAGE 3 OF 3
2-2210 P-10
2010 18557



This Instrument Prepared by:

M&I Regional Properties, LLC
Corporate Real Estate
770 N. Water Street
Milwaukee, WI 53202

Rec: \$ 18.50
Doc: \$ 0.70

19.20
Parcel ID: N24A117

Inst 201260008353 Date: 3/19/2012 Time 4:01 PM
Doc Stamp-Deed: 0.70
DC: Gloria R. Hayward, Sumter County Page 1 of 2 B 2424 P-494

QUIT-CLAIM DEED

*R. Knight Barry Title
330 E Kilbourn Avenue #25
Milwaukee, WI 53202*

THIS QUIT-CLAIM DEED, executed this 17th day of February, 2012, by Jumper Creek Joint Venture, a Florida joint venture, whose address is 197 Montgomery Road, Suite 120, Altamonte Springs, Florida 32714 ("Grantor") to Jumper Creek Homeowner's Association, Inc., a Florida corporation not for profit, whose address is 3936 Lake Padgett Drive, Land O'Lakes, Florida 34639 ("Grantee"). (Wherever used herein the terms "Grantor" and "Grantee" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

WITNESSETH, That the Grantor, for and in consideration of the sum of \$10.00 in hand paid by the Grantee, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the Grantee forever, all the right, title, interest, claim and demand which the Grantor has, if any, in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Sumter, State of Florida to-wit:

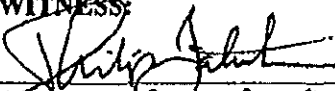
Tracts 1, 2, 3 and 7, JUMPER CREEK MANOR, according to the Plat thereof, as recorded in Plat Book 9, Pages 5, 5A and 5B, Public Records of Sumter County, Florida

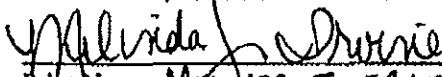
The above described property does not constitute the Grantor's homestead property nor is it contiguous thereto. This instrument is being executed in connection with the wind-up of the business affairs of Horizon Homes of Central Florida, Inc., as a joint venture partner of the Grantor.

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the Grantor, if any, either in law or equity, to the only proper use, benefit and behoove of the Grantee forever.

IN WITNESS WHEREOF, The said Grantor has signed and sealed these presents the day and year first above written.

WITNESS:


Print Name: PHILIP TATCH


Print Name: MELINDA J. IRVINE

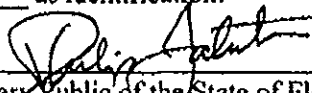
JUMPER CREEK JOINT VENTURE

By: Horizon Homes of Central Florida, Inc.

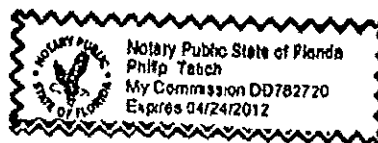
By: 
Gregg A. Wassermann, President

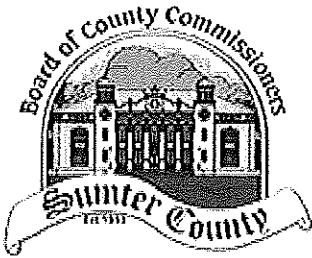
STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 17th day of February, 2012, by Gregg A. Wassermann, as president of Horizon Homes of Central Florida, Inc., as a joint venture partner of Jumper Creek Joint Venture, who is personally known to me or who has produced _____ as identification.


Notary Public of the State of Florida
Name: PHILIP TATCH
Commission Expiration Date: _____

7075332_3





Sumter County Building Department

7375 Powell Road, Suite 115
Wildwood, FL 34785
Ph (352) 689-4460 Fax (352) 689-4461

RECEIPT FOR PAYMENT RECEIVED

CASE NO CE2009-0543	CASE TYPE GRASS	CASE SUBTYPE	CASE DESCRIPTION/COMMENTS	
RECEIPT NO C0316	RECEIPT DATE 5/30/2012	PAYMENT TYPE CHECK 1076	RECEIVED FROM JUMPER CREEK HOMEOWNER'S ASSOC	RECEIVED BY SGO

FEE(s)	AMOUNT
Administrative Costs	100.00
Inspection Costs	250.00
Postage Costs	11.06

TOTAL PAID **\$361.06**
BALANCE DUE **\$20,550.00**

Signature